

**RESOLUTION**  
R \_\_\_\_\_ 17- 07

**A RESOLUTION AUTHORIZING SIGNATURE OF  
PRESIDENT AND CLERK ON A HIGHWAY AUTHORITY AGREEMENT**

WHEREAS, the Corporate Authorities of the Village of Lombard have received a Highway Authority Agreement, as attached hereto and marked Exhibit "A": and,

WHEREAS, the Corporate Authorities deem it to be in the best interest of the Village of Lombard to authorize the execution of the Agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF LOMBARD, DU PAGE COUNTY, ILLINOIS, as follows:

SECTION 1: That the Village President be and hereby is authorized to sign on behalf of the Village of Lombard said document as attached hereto.

SECTION 2: That the Village Clerk be and hereby is authorized to attest said Agreement as attached hereto.

Adopted this 17th day of August, 2006.

Ayes: Trustees Gron, Tross, O'Brien, Florey and Soderstrom

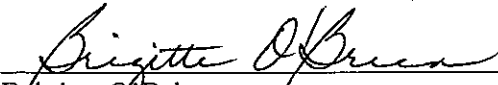
Nays: None

Absent: Trustee Sebby

Approved this 17th day of August, 2006.

  
\_\_\_\_\_  
William J. Mueller, Village President

ATTEST:

  
\_\_\_\_\_  
Brigitte O'Brien  
Village Clerk

## TIERED APPROACH TO CORRECTIVE-ACTION OBJECTIVES AGREEMENT

This Agreement is entered into this 17th day of August, 2006, pursuant to 35 Ill. Admin. Code Section 742.1020 and by and between EQUILON ENTERPRISES LLC d/b/a SHELL OIL PRODUCTS US ("OWNER/OPERATOR") and VILLAGE OF LOMBARD, Illinois ("VILLAGE"), as follows:

1. This Agreement is not binding upon the VILLAGE until it is executed by the undersigned representative of the VILLAGE and prior to execution, this Agreement constitutes an offer by OWNER/OPERATOR.

2. OWNER/OPERATOR stipulates:

a. OWNER/OPERATOR is pursuing a corrective action of a Site and of the right-of-way adjacent to the boundary of the Site located at 18 West 622 Roosevelt Road, Lombard, Illinois (the "Site").

b. Attached as Exhibit A is a site map which shows the area of estimated contaminant impacted soil and groundwater at the time of this Agreement in the right-of-way above Tier 1 residential levels under 35 Ill. Admin. Code Part 742. Also attached as Exhibit A is a table showing the concentration of contaminants of concern, hereafter "Contaminants," in the soil and groundwater within the area described in Exhibit A and which shows the applicable Tier 1 soil remediation objectives for residential property and Tier 1 objectives for groundwater of the Illinois Pollution Control Board ("IPCB"), which are exceeded. The right-of-way, and only the right-of-way, as described in Exhibit B, hereinafter the "Right-of-Way," adjacent to the Site is subject to this Agreement. As the drawings in the Exhibits are not plats, the boundary of the Right-of-Way in the Exhibits may be an approximation of the actual Right-of-Way lines. The Right-of-Way has been sampled for Contaminants, and the parties believe that the area of the

Right-of-Way is adequate to encompass the soil and the groundwater within Right-of-Way impacted with Contaminants from a release at the Site.

c. The Illinois Emergency Management Agency has assigned incident number 97464174 to this release at the Site.

d. OWNER/OPERATOR intends to request risk-based, site-specific soil and/or groundwater remediation objectives from Illinois Environmental Protection Agency ("IEPA") under 35 Ill. Admin. Code Part 742.

e. Under these rules, use of risk-based, site specific remediation objectives in the Right-of-Way may require the use of a Highway Authority Agreement as defined in 35 Ill. Admin. Code Section 742.1020.

3. The VILLAGE stipulates:

The VILLAGE holds a fee simple interest or a dedication for highway purposes in the Right-of-Way, or the Right-of-Way is a platted street, and the VILLAGE has jurisdiction of the Right-of-Way. As such, the VILLAGE exercises sole control over the use of groundwater beneath the Right-of-Way and over access to the soil beneath the Right-of-Way because a permit is required for said access.

4. The parties stipulate that:

a. Under 35 Ill. Admin. Code Section 742.1020, this Agreement is intended to be an acceptable "Highway Authority Agreement" to IEPA, as the VILLAGE is willing to agree that it will not allow the use of groundwater under the highway Right-of-Way as a potable or other domestic supply of water and that it will limit access as described herein to soil under the highway Right-of-Way that is contaminated from the release at levels above residential Tier 1 remediation objectives.

b. The IEPA must review and approve this Agreement, and this Agreement shall be referenced in the IEPA's "No Further Remediation" letter.

c. This Agreement shall be null and void should the IEPA not approve it or should it not be referenced in the "No Further Remediation" letter.

5. The VILLAGE promises IEPA and the OWNER/OPERATOR that it will prohibit the use of groundwater that is contaminated from the release at the Site at levels above Tier 1 remediation objectives beneath its Right-of-Way as a potable or other domestic supply of water and will limit access to soil as described herein under the Right-of-Way that is contaminated from the release at the Site at levels above Tier 1 remediation objectives. As the pavement in the Right-of-Way may be considered an engineered barrier, the OWNER/OPERATOR agrees to reimburse the VILLAGE for maintenance activities requested by OWNER/OPERATOR in writing in order to maintain it as a barrier. The VILLAGE does not otherwise agree to perform maintenance of the Right-of-Way, nor does it agree that the highway Right-of-Way will always remain a highway or that it will maintain the Right-of-Way as an engineered barrier.

6. OWNER/OPERATOR agrees, at its sole cost and expense, to indemnify and hold harmless and defend the VILLAGE and other highway authorities, if any, maintaining the highway Right-of-Way by an agreement with the VILLAGE and other entities holding highway permits and the VILLAGE's former, current and future officials, trustees, agents, contractors, and employees for and from any and all claims, actions, omissions, losses, injuries, lawsuits, counterclaims, obligations, judgments, awards, demands, liens, reasonable costs, reasonable expenses, reasonable attorneys' fees and liability for damages of any kind and causes of action of any kind and nature, whether known or unknown at this time, whether present or future or contingent, that are brought or filed against the VILLAGE, said highway authorities and permit

entities, and/or the VILLAGE's former, current and future officials, trustees, agents, contractors, and employees, by any person or entity arising out of, relating to, connected with, or in any way associated with the release or alleged release of Contaminants from the Site by OWNER/OPERATOR. In the event that any such claim, action, cause of action or lawsuit is brought or filed, the VILLAGE, and its former, current and future officials, trustees, employees, contractors, agents, and said highway authorities and permit entities sued thereunder, shall have the right to determine the attorney(s) of its, his, hers or their choice to represent and defend their interest in any such legal or administrative action at reasonable attorney rates all at OWNER/OPERATOR's expense pursuant to this Agreement.

7. This Agreement shall be binding upon all successors in interest to OWNER/OPERATOR and to the VILLAGE. A successor in interest of the VILLAGE would include a highway authority to which the VILLAGE would transfer jurisdiction of the highway.

8. Violation of the terms of this Agreement by OWNER/OPERATOR, or their successors in interest, may be grounds for voidance of this Agreement as a Highway Authority Agreement. Violation of the terms of this Agreement by the VILLAGE will not void this Agreement, unless the IEPA has determined that the violation is grounds for voiding this Agreement as a Highway Authority Agreement and the VILLAGE has not cured the violation within such time as IEPA has granted to cure the violation.

9. This Agreement shall continue in effect from the date of this Agreement until the Right-of-Way is demonstrated to be suitable for unrestricted use, and there is no longer a need for this Agreement as a Highway Authority Agreement, and the IEPA has, upon written request to the IEPA by the Owner/Operator and notice to the Village, amended the notice in the chain of title of the Site to reflect unencumbered future use of that highway Right-of-Way.

10. This Agreement does not limit the VILLAGE's ability to construct, reconstruct, demolish, improve, grade, excavate, repair, maintain and operate (collectively "Work") the property encompassed by the Right-of-Way for a highway or any lawful purpose, nor to allow others to use or do Work upon the Right-of-Way by permit. To the extent necessary for its Work, the VILLAGE reserves the right and the right of those using its property under permit to remove contaminated soil and/or groundwater above Tier 1 residential remediation objectives from its Right-of-Way and to dispose of them as they deem appropriate not inconsistent with applicable environmental regulations so as to avoid causing a further release of the Contaminants and to protect human health and the environment.

The removal or disposal shall be based upon the site investigation (which may be modified by field conditions during excavation), which OWNER/OPERATOR may review or may perform, at no cost to the VILLAGE, if requested to do so by the VILLAGE. If practicable, as determined by the VILLAGE, the VILLAGE may request OWNER/OPERATOR to remove and dispose of the contaminated soil or groundwater necessary for the VILLAGE's Work in advance of that Work.

OWNER/OPERATOR shall reimburse the reasonable costs incurred by the VILLAGE to perform a site investigation of the Right-of-Way and to monitor the removal, to transport and to dispose of any contaminated soil and/or groundwater from the Right-of-Way. Should OWNER/OPERATOR not reimburse the reasonable costs under the conditions set forth herein, this Agreement shall be null and void, at the VILLAGE's option, upon written notice to OWNER/OPERATOR by the VILLAGE that those costs have not been reimbursed. OWNER/OPERATOR may cure that problem within thirty (30) working days by making payment.

11. Written notice required by this Agreement shall be mailed to the following: if to OWNER/OPERATOR: Environmental Engineering, Shell Oil Products US, Science & Engineering, 603 E. Diehl Road, Suite 103, Naperville, Illinois 60563, and if to VILLAGE: Director of Community Development, Village of Lombard, 255 E. Wilson Avenue, Lombard, Illinois 60148, and Dennis G. Walsh Esq., Klein, Thorpe and Jenkins, Ltd., 20 North Wacker Drive, Suite 1660, Chicago, Illinois 60606.

12. The VILLAGE's sole responsibility under this Agreement with respect to others using the highway Right-of-Way under permit from the VILLAGE is to include the following, or similar language, in the future standard permit provisions and to make an effort to notify its current permit holders of the following:

As a condition of this permit, the permittee shall request the Village of Lombard to identify sites in the Right-of-Way where access to contaminated soil or groundwater is governed by Tiered Approach to Corrective-Action Objectives ("TACO") Agreements. The permittee shall take measures before, during and after any access to these sites to protect worker safety and human health and the environment. Excavated, contaminated soil should be managed off-site in accordance with all environmental laws.

OWNER/OPERATOR hereby releases the VILLAGE from liability for breach of this Agreement by others under permit and indemnifies the VILLAGE against claims that may arise from others under permit causing a breach of this Agreement. OWNER/OPERATOR agrees that its personnel, if any, at the Site who are aware of this Agreement will notify anyone they know is excavating in the Right-of-Way about this Agreement.

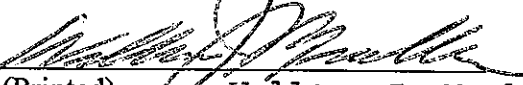
13. Should the VILLAGE breach this Agreement, OWNER/OPERATOR's sole remedy is for an action for damages. Any and all claims for damages against the VILLAGE, its agents, contractors, employees or its successors in interest arising at any time for a breach of this Agreement are limited to an aggregate maximum of \$10,000.00. No other breach by the

VILLAGE, its agents, contractors, employees and its successors in interest of a provision of this Agreement is actionable in either law or equity by OWNER/OPERATOR against the VILLAGE and OWNER/OPERATOR hereby releases the VILLAGE, its agents, contractors, employees and its successors in interest for any cause of action it may have against them, other than as allowed in this paragraph, arising under this Agreement or environmental laws, regulations or common law governing the contaminated soil or groundwater in the highway Right-of-Way. Should the VILLAGE convey, vacate or transfer jurisdiction of that highway Right-of-Way, OWNER/OPERATOR may pursue an action under this Agreement against the successors in interest, other than a State agency, in a court of law.

14. This Agreement is entered into by the VILLAGE in recognition of laws passed by the General Assembly and regulations adopted by the Pollution Control Board, which encourage a tiered-approach to remediating environmental contamination. This Agreement is entered into by the VILLAGE in the spirit of those laws and under its rights and obligations as a highway authority. Should any provisions of this Agreement be struck down as beyond the authority of the VILLAGE, this Agreement shall be null and void.

IN WITNESS WHEREOF, the VILLAGE has caused this Agreement to be signed by its duly authorized representative, and be binding upon it, its successors and assigns.

VILLAGE OF LOMBARD, ILLINOIS

By   
(Printed) William J. Mueller  
Its: President

DATE: August 17, 2006

ATTEST:

  
Brigitte O'Brien  
Village Clerk



EQUILON ENTERPRISES, LLC.  
d/b/a SHELL OIL PRODUCTS US

By: John Robbins

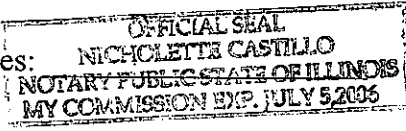
DATE: 6/18/06  
to

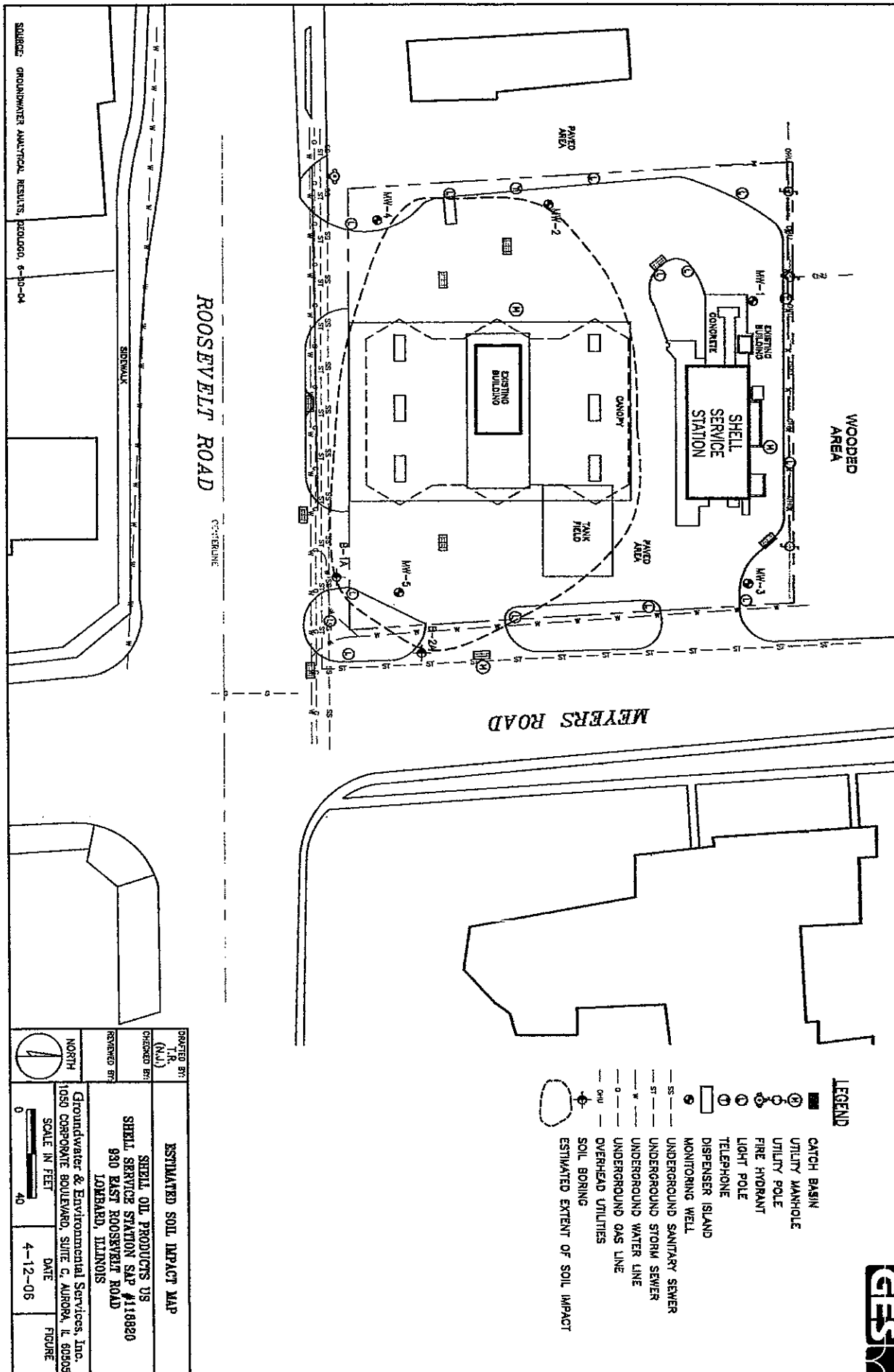
(Printed) John Robbins,  
Senior Environmental Engineer

The within and foregoing instrument was acknowledged before me this 8<sup>th</sup> day of June, 2006, by John Robbins, who is a senior environmental engineer of Equilon Enterprises LLC, d/b/a Shell Oil Products US, a Delaware limited liability company, on behalf of the Company.

Witness my hand and official seal this 8<sup>th</sup> day of June, 2006.

Nichollette Castillo  
Notary Public

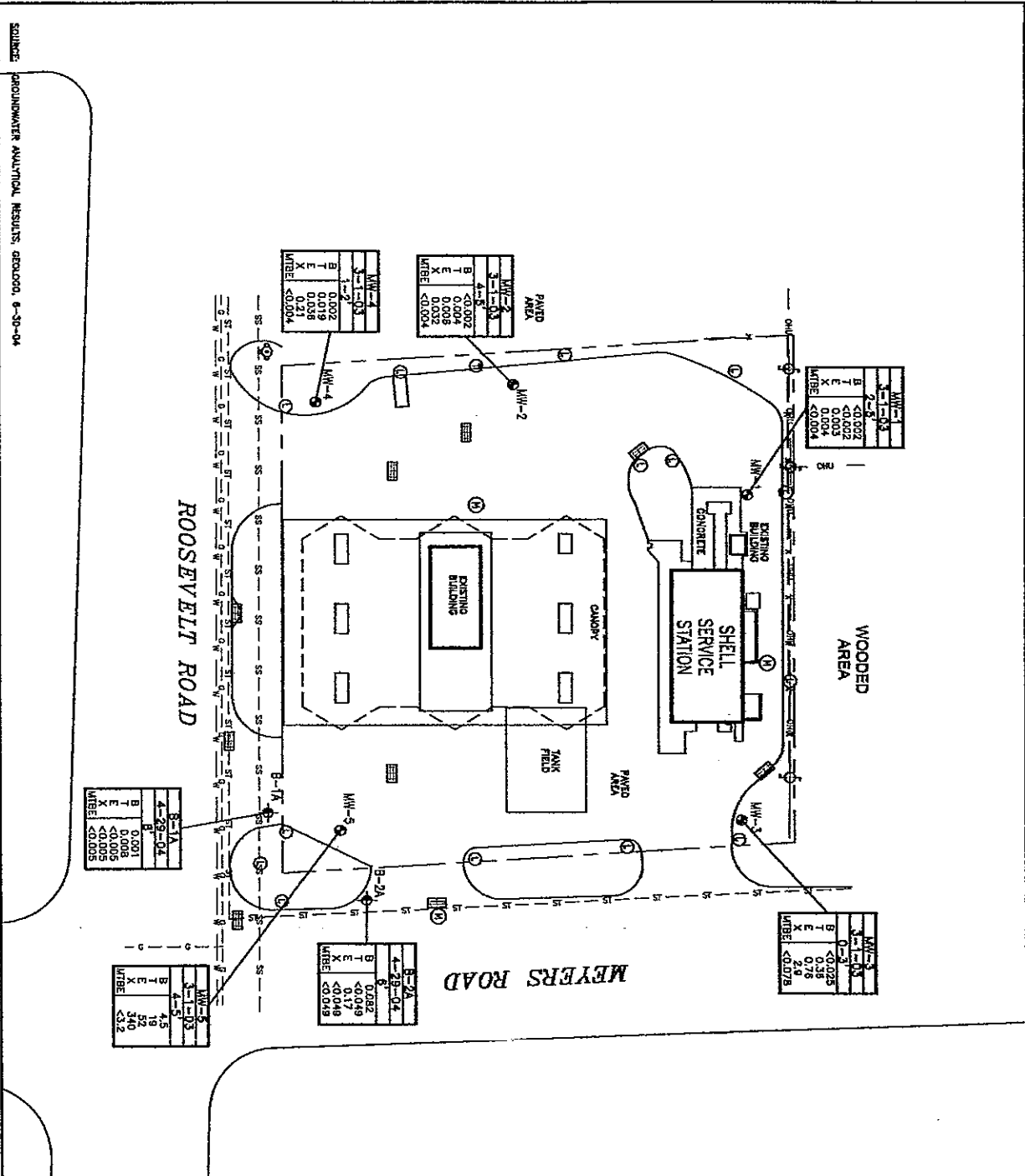
My commission expires: 



SOURCE: GROUNDWATER ANALYTICAL RESULTS, GEOSCIENCE, 6-30-04

DRAFT (M.A.) CHECKED BY: REVIEWED BY:	<b>ESTIMATED SOIL IMPACT MAP</b> SHELL OIL PRODUCTS US SHELL SERVICE STATION SAP #118820 930 EAST ROOSEVELT ROAD LOMBARD, ILLINOIS
NORTH SCALE IN FEET 0 40	Groundwater & Environmental Services, Inc. 1050 CORPORATE BOULEVARD, SUITE C, AURORA, IL 60905 DATE: 4-12-06 FIGURE:

EXHIBIT B



**LEGEND**

- CATCH BASIN
- UTILITY MANHOLE
- UTILITY POLE
- FIRE HYDRANT
- LIGHT POLE
- TELEPHONE
- DISPENSER ISLAND
- MONITORING WELL
- UNDERGROUND SANITARY SEWER
- UNDERGROUND STORM SEWER
- UNDERGROUND WATER LINE
- UNDERGROUND GAS LINE
- OVERHEAD UTILITIES
- SOIL BORING

MW-1	MW-2	MW-3	MW-4	MW-5
B	B	B	B	B
T	T	T	T	T
E	E	E	E	E
X	X	X	X	X
MTBE	MTBE	MTBE	MTBE	MTBE
<0.002	<0.002	<0.025	<0.002	<0.005
0.004	0.004	0.38	0.019	0.001
0.004	0.003	2.9	0.038	0.005
<0.004	<0.004	<0.078	<0.004	<0.005

MW-2	MW-3	MW-4	MW-5
B	B	B	B
T	T	T	T
E	E	E	E
X	X	X	X
MTBE	MTBE	MTBE	MTBE
<0.002	<0.002	<0.002	<0.002
0.004	0.004	0.019	0.019
0.003	0.003	0.038	0.038
<0.004	<0.004	<0.004	<0.004

MW-3	MW-4	MW-5
B	B	B
T	T	T
E	E	E
X	X	X
MTBE	MTBE	MTBE
<0.002	<0.002	<0.002
0.004	0.004	0.019
0.003	0.003	0.038
<0.004	<0.004	<0.004

mg/kg MILLIGRAMS PER KILOGRAM

MTBE METHYL TERT-BUTYL ETHER

<# WHERE AN ANALYTE IS NOT DETECTED, A METHOD DETECTION LIMIT IS GIVEN

**SOIL ANALYTICAL DATA MAP**

PREPARED BY: (I.R.) (N.A.)

CHECKED BY:

REVIEWED BY:

**SHELL OIL PRODUCTS US**

**SHELL SERVICE STATION S&P #118820**

**830 EAST ROOSEVELT ROAD**

**LOMBARD, ILLINOIS**

Groundwater & Environmental Services, Inc.

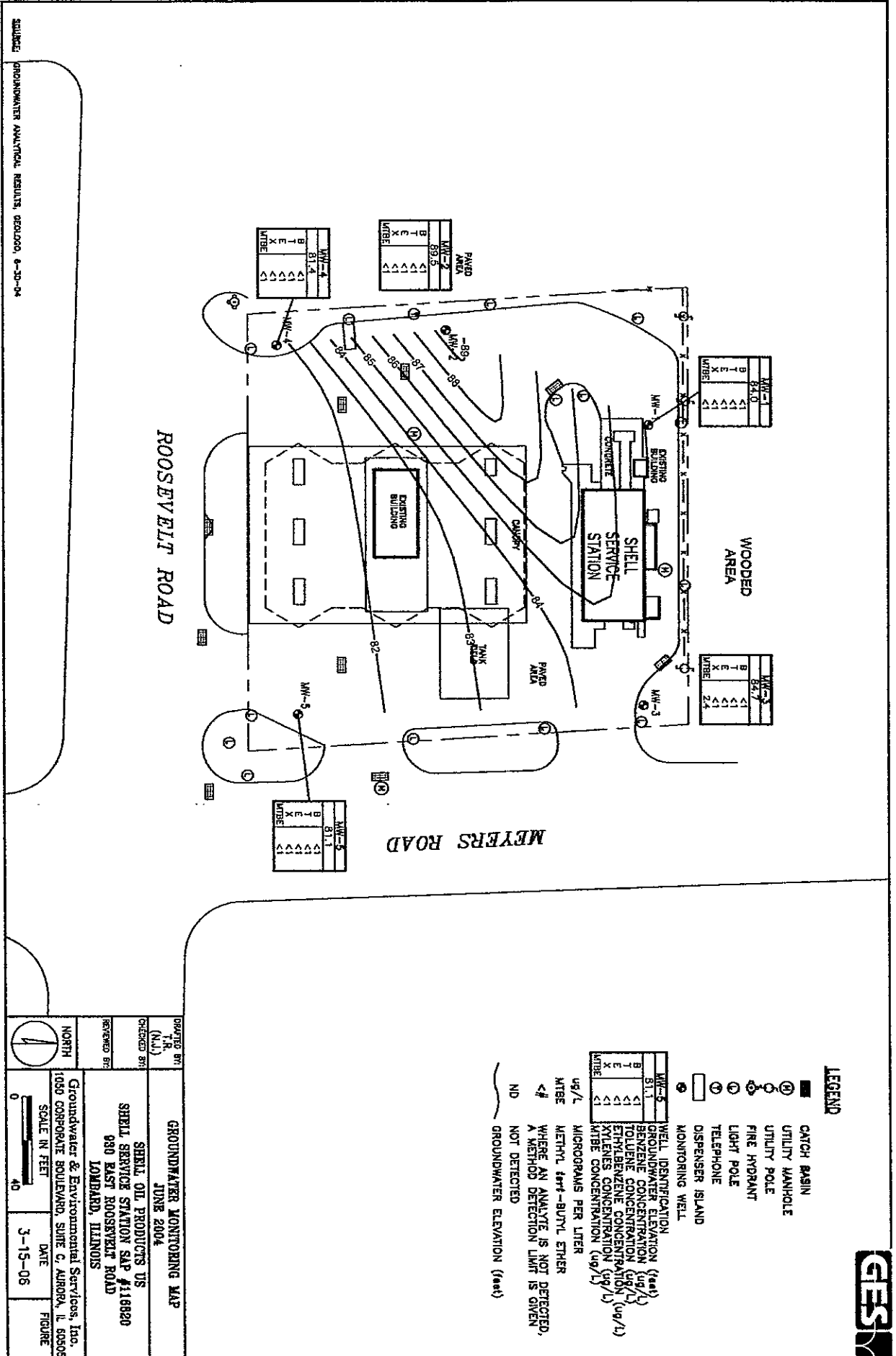
1050 CORPORATE BOULEVAR, SUITE C, AURORA, IL 60505

SCALE IN FEET: 0 to 40

DATE: 3-15-06

FIGURE:





SOURCE: GROUNDWATER ANALYTICAL RESULTS, 05/20/06, 6-30-04

DATE: 6/15/04 (M.D.)	DESIGNED BY: [Signature]
CHECKED BY: [Signature]	REVIEWED BY: [Signature]
<b>GROUNDWATER MONITORING MAP</b>	
JUNE 2004	
SHELL OIL PRODUCTS US	
SHELL SERVICE STATION SAP #116820	
980 EAST ROOSEVELT ROAD	
LOMBARD, ILLINOIS	
Groundwater & Environmental Services, Inc. 1050 CORPORATE BOULEVARD, SUITE C, AURORA, IL 60505	
NORTH	SCALE IN FEET
0	40
DATE: 3-15-06	FIGURE



Table 1

Soil Analytical Summary  
 Shell Service Station  
 # 116820  
 930 East Roosevelt Road  
 Lombard, Illinois

Tier 1 Soil Remediation Objectives			Benzene (mg/kg)	Toluene (mg/kg)	Ethylbenzene (mg/kg)	Xylenes (mg/kg)	MTBE (mg/kg)
<i>Ingestion</i>			12	16,000	7,800	160,000	780
<i>Inhalation</i>			0.8	650	400	410	8800
<i>Soil Component of Groundwater (I)</i>			0.03	12	13	190	0.32
<i>Soil Component of Groundwater (II)</i>			0.17	29	19	190	0.32
Soil Boring Description	Sample Date	Depth (ft)					
MW-1	03/01/03	2-5	<0.002	<0.002	0.003	NA	<0.004
MW-2	03/01/03	4-5	<0.002	0.004	0.006	NA	<0.004
MW-3	03/01/03	0-3	<0.025	0.36	0.76	NA	<0.078
MW-4	03/01/03	1-2	0.002	0.019	0.036	NA	<0.004
MW-5	03/01/03	4-5	<b>4.5</b>	19	52	340	<b>&lt;3.2</b>
B-1A	04/29/04	8	0.01	0.008	<0.005	NA	<0.005
B-2A	04/29/04	6	0.082	<0.049	0.17	NA	<0.049

NOTES:

- 1) mg/kg= milligrams per kilogram or parts per million (ppm)
- 2) ft = Feet
- 3) <0.002 indicates that the constituent was detected at a concentration below the laboratory method detection limit.
- 4) NA = Not Applicable/Not Tested For
- 5) **Bold** = Contaminant exceeds the Tier 1 Soil Remediation Objective for Class II groundwater (35 IAC, Section 742. Appendix B, Table A)

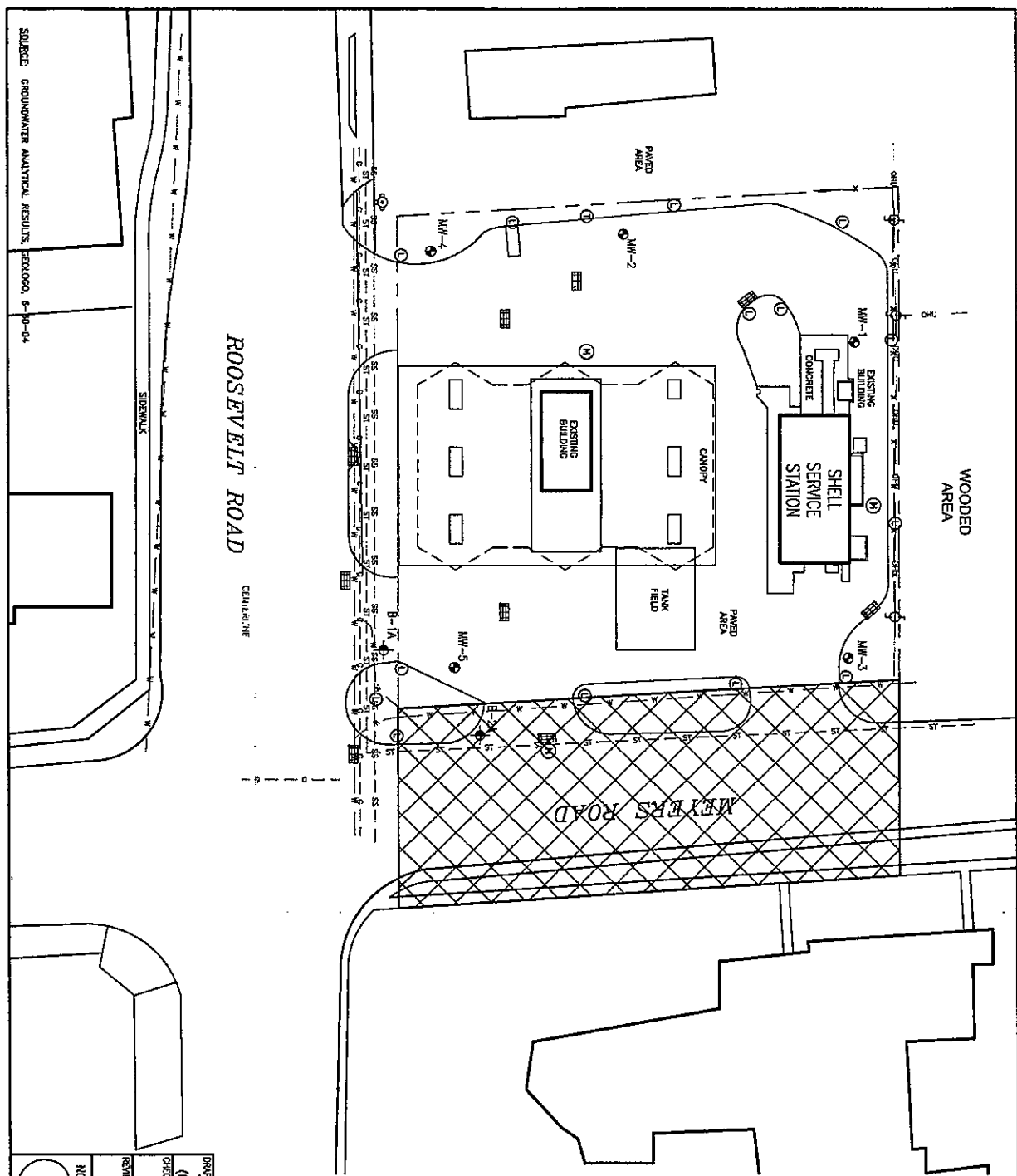
Table 2

Groundwater Analytical Summary  
 Shell Service Station  
 # 116820  
 930 East Roosevelt Road Lombard, Illinois

Tier 1 Groundwater Remediation Objectives					Benzene (ug/L)	Toluene (ug/L)	Ethylbenzene (ug/L)	Xylenes (ug/L)	MTBE (ug/L)
<i>Class I Groundwater Remediation Objective</i>					5	1,000	700	10,000	70
<i>Class II Groundwater Remediation Objective</i>					25	2,500	1,000	10,000	70
Sample Location	Sample Date	Referenced Elevation	Depth to Groundwater	Groundwater Elevation					
MW-1	4/1/03	98.47	11.55	86.9	<5	<5	<5	<5	<5
	8/15/03	98.47	13.49	85.0	<1	<1	<1	<1	<3
	12/19/03	98.47	10.01	88.5	<1	<1	<1	<1	<3
	6/8/04	98.47	14.51	84.0	<1	<1	<1	<1	<1
MW-2	4/1/03	99.04	17.80	81.2	<5	<5	<5	<5	<5
	8/15/03	99.04	17.38	81.7	<1	<1	<1	<1	<3
	12/19/03	99.04	17.02	82.0	<1	<1	<1	<1	<3
	6/8/04	99.04	9.52	89.5	<1	<1	<1	<1	<1
MW-3	4/1/03	98.81	16.50	82.3	<5	<5	<5	<5	<5
	8/15/03	98.81	15.44	83.4	<1	<1	<1	<1	<3
	12/19/03	98.81	15.90	82.9	<1	<1	<1	<1	<3
	6/8/04	98.81	14.09	84.7	<1	<1	<1	<1	2.4
MW-4	4/1/03	99.08	18.22	80.9	<5	<5	<5	<5	<5
	8/15/03	99.08	19.42	79.7	<1	<1	<1	<1	<3
	12/19/03	99.08	17.33	81.8	<1	<1	<1	<1	<3
	6/8/04	99.08	17.73	81.4	<1	<1	<1	<1	<1
MW-5	4/1/03	99.08	24.26	NG	NS	NS	NS	NS	NS
	8/15/03	99.08	19.15	79.9	<1	<1	<1	<1	<3
	12/19/03	99.08	18.48	80.6	<1	<1	1.3	<1	<3
	6/8/04	99.08	17.97	81.1	<1	<1	<1	<1	<1

Notes:

- 1) ug/L = micrograms per liter or parts per billion (ppb)
- 2) <5 indicates concentration detected less than the method detection limit
- 3) NG = Not gauged due to lack of water
- 4) NS = Not Sampled
- 5) **Bold** = Concentration exceeds the Class II Groundwater Remediation Objective (35 IAC, Section 742. Appendix A, Table E)



- LEGEND**
- ▤ CATCH BASIN
  - ⊙ UTILITY MANHOLE
  - ⊙ UTILITY POLE
  - ⊙ FIRE HYDRANT
  - ⊙ LIGHT POLE
  - ⊙ TELEPHONE
  - DISPENSER ISLAND
  - MONITORING WELL
  - SS --- UNDERGROUND SANITARY SEWER
  - ST --- UNDERGROUND STORM SEWER
  - W --- UNDERGROUND WATER LINE
  - G --- UNDERGROUND GAS LINE
  - OAU --- OVERHEAD UTILITIES
  - ⊙ SOIL BORING
  - ▨ AREA SUBJECT TO HIGHWAY AUTHORITY AGREEMENT VILLAGE OF LOMBARD

PREPARED BY: T.R. (M.A.)	PROPOSED HIGHWAY AUTHORITY AGREEMENT MAP VILLAGE OF LOMBARD
CHECKED BY: (M.A.)	SHELL OIL PRODUCTS US SHELL SERVICE STATION S#P #116820 890 EAST ROOSEVELT ROAD LOMBARD, ILLINOIS
REVIEWED BY: (M.A.)	Groundwater & Environmental Services, Inc. 1050 CORPORATE BOULEVARD, SUITE C, ALTOONA, IL 62595
NORTH 	SCALE IN FEET 
DATE 4-12-06	FIGURE

SOURCE: GROUNDWATER ANALYTICAL RESULTS, PCOL000, 6-10-04